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TELEPHONE 214 979-6600

DEC 27 1988 3:50 PM

December 27, 1988

RECORDATION NO. 14563-C

Recordation No. 14563

Dear Ms. McGee:

*\$13.00 filing fee*

On behalf of First City Leasing Corporation, I submit for filing and recording under 49 U.S.C. Section 11303(a) and the regulations promulgated thereunder, two enclosed executed counterparts of a secondary document, not previously recorded, entitled Amended and Restated Security Agreement, dated as of December 27, 1988. The aforesaid document relates to that certain Security Agreement, dated January 29, 1985, recorded with the Interstate Commerce Commission under Recordation No. 14563 on January 29, 1985 and should be filed under the next available letter designation under Recordation No. 14563 which we believe will be -C.

*this one is 14563-C*

The parties to the enclosed document are:

Platte River Associates -- Debtor  
1220 Market Building  
Suite 700  
P.O. Box 198  
Wilmington, Delaware 19899

First City Leasing Corporation -- Secured Party  
1001 Main Street  
Suite 1550  
Houston, Texas 77002

100 OFFICE OF THE CLERK  
DEC 27 3 45 PM '88  
NOTOR OFFICIAL

8-362A062

No. DEC 27 1988

Date

Fee \$ 13.00

ICC Washington, D.C.

The said Amended and Restated Security Agreement continues and restates the grant of certain security interests and rights granted in the aforesaid Security Agreement.

The units of equipment covered by the Amended and Restated Security Agreement are the thirty-seven (37) 2,000 horsepower model GP-38-2 locomotives with Missouri Pacific Railroad Company's Unit numbers MP2074-MP2110 inclusive manufactured by General Motors, Electromotive Division, together with all replacements, substitutions, attachments,

*Conveyance of Property*

modifications, additions, improvements, upgrades and accessions of, to or upon such locomotives, now owned or hereafter acquired by Platte River Associates.

A short summary of the document to appear in the ICC Index is as follows:

"Amends and restates Security Agreement."

Enclosed is a check in the amount of thirteen dollars (\$13) in payment of the filing fee.

Once the filing has been made, please return to bearer the stamped counterpart of the document not required for filing purposes, together with the fee receipt, the letter from the ICC acknowledging the filing, and the two extra copies of this transmittal letter.

Very truly yours,



Philip M. Kinkaid  
Attorney for the purpose of  
this filing for First City  
Leasing Corporation

Honorable Noreta R. McGee  
Secretary  
Interstate Commerce Commission  
Washington, D.C. 20423

Enclosures

BY HAND

a:transec.ltr

INTERSTATE COMMERCE COMMISSION

DEC 27 1988 3-50 PM

RECORDATION NO. 14563-2 FILE 1488

AMENDED AND RESTATED  
SECURITY AGREEMENT AND ASSIGNMENT

Dated as of December 27, 1988

between

PLATTE RIVER ASSOCIATES

and

FIRST CITY LEASING CORPORATION

Financing  
of

THIRTY-SEVEN LOCOMOTIVES

Leased

to

MISSOURI PACIFIC RAILROAD CORPORATION

and

UNION PACIFIC RAILROAD COMPANY

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AMENDED AND RESTATED  
SECURITY AGREEMENT  
AND  
ASSIGNMENT

THIS AMENDED AND RESTATED SECURITY AGREEMENT AND ASSIGNMENT is entered into as of December 27, 1988 by and between PLATTE RIVER ASSOCIATES, a Delaware general partnership (the "Lessor") and FIRST CITY LEASING CORPORATION, a Delaware corporation (the "Lender").

RECITALS

WHEREAS pursuant to the provisions of a Lease of Railroad Equipment dated as of January 10, 1973 (the "Lease") by and among the Missouri Pacific Railroad Company ("MoPac") and The First National Leasing Company ("FNLC"), FNLC leased the Equipment (as hereinafter defined) to MoPac;

WHEREAS TXL ASTRA Corporation VI (the "Seller") acquired from FNLC all of FNLC's rights, title and interests in and to the Equipment and in, to and under the Lease;

WHEREAS the Seller executed that certain 13.5% Secured Note Due March 20, 1989 in the principal amount of \$3,577.704.28 dated January 29, 1985 (the "Original Note") in favor of Meritor Savings Bank (successor by name change to The Philadelphia Saving Fund Society) ("Meritor") and, to secure the Original Note, the Seller assigned the Lease and rights under the EPA to Meritor and granted a first perfected security interest in the Lease, the EPA and the Equipment to Meritor pursuant to that certain Security Agreement dated January 29, 1985 (the "Original Security Agreement");

WHEREAS International Capital Equipment Limited ("ICE") has entered into its Equipment Purchase Agreement Number 1501481 dated as of January 21, 1985 (the "EPA") with the Seller, and the Seller has assigned rights in the EPA to Meritor;

WHEREAS MoPac has assigned to Union Pacific Railroad Company its interest under the Lease in and to twenty of the Locomotives (MoPac and Union Pacific Railroad Company being referred to collectively herein as the "Lessee");

WHEREAS pursuant to a Locomotive Purchase Agreement dated as of December 1, 1988 by and between the Seller and

Platte River Locomotive Corporation, as agent for the Lessor, as amended by that certain Amendment to Locomotive Purchase Agreement, dated as of December 1, 1988 (collectively, the "Purchase Agreement"), the Seller has sold the Equipment to the Lessor, assigned the Lease to the Lessor subject to the rights of the Lessee thereunder, and assigned its interest as Seller in the EPA to the Lessor;

WHEREAS the Lessee and the Lessor have entered into a First Amendment to Lease of Railroad Equipment and a Second Amendment to Lease of Railroad Equipment (collectively, the "Lease Amendments"), which amend the Lease (and all subsequent references herein to the Lease shall refer to the Lease as amended by the Lease Amendments);

WHEREAS the Lessor, the Lender and ICE have entered into that certain Supplement to Equipment Purchase Agreement dated as of December 27, 1988 (the "EPA Supplement"), which supplements the EPA (and all subsequent references to the EPA shall refer to the EPA as supplemented by the EPA Supplement);

WHEREAS pursuant to a Participation Agreement dated as of December 27, 1988 (the "Participation Agreement") by and between the Lessor and the Lender, the Lender has agreed to make a loan in the amount of \$10,187,274.45 to the Lessor (the "Loan");

WHEREAS in order to induce the Lender to make the Loan, the Lessor has caused Meritor to agree to assign all of its interest in and to the Lease, the Equipment, the Original Note, the Original Security Agreement and the EPA to the Lender;

WHEREAS a condition precedent, among others, to the obligation of the Lender to make the loan is that the Lessor shall have executed and delivered to the Lender (a) a secured promissory note of the Lessor in the principal amount of \$10,187,274.45 (the "Note") which shall replace, rearrange and extend the Original Note and (b) this Agreement, which shall amend and restate the Original Security Agreement;

NOW THEREFORE, in consideration of the premises and of the mutual covenants herein contained, and for good and valuable consideration, the receipt of which is hereby acknowledged, the parties hereto hereby agree to amend and

restate the Original Security Agreement in its entirety, as follows:

#### AGREEMENT

Section 1. Defined Terms. Terms defined in the Participation Agreement shall have their defined meanings when used in this Agreement, unless such terms are otherwise defined herein, and the following terms shall have the following meanings (such terms to be equally applicable to both singular and plural forms of the terms defined):

"Collateral" shall have the meaning given in Section 2.1 hereof.

"Delivery Date" shall have the meaning given to such term in Section 1.2 of Part I of the EPA.

"Equipment" shall have the meaning given such term in paragraph (b) of Section 2.1 hereof.

"Event of Default" shall mean any of the events specified in Section 6.1 hereof, provided that there has been satisfied any requirement in connection with such event for the giving of notice, the lapse of time, or the happening of any further condition, event or act; and "Default" shall mean any of such events, whether or not any such requirement has been satisfied and whether or not existing under this Agreement or otherwise.

"Liens" shall mean liens, mortgages, security interests, financing statements, pledges, title retentions, charges, options to purchase exercisable during the period the Obligations are outstanding, or other encumbrances of any kind whatsoever, but, to the extent pertaining to the Equipment or the Collateral, excluding the interests therein of the Lessee under the Lease and of the Lender as contemplated by this Agreement.

"Notice of Delivery" shall have the meaning given to such term in Section 1.2 of Part I of the EPA.

"Obligations" shall mean (i) the unpaid principal amount of, and accrued interest on, the Note, and (ii) all other obligations and liabilities of the Lessor to the Lender, now existing or hereafter incurred, arising

under, out of or in connection with this Agreement or the Participation Agreement.

"Rent" shall have the meaning set forth in the first paragraph of Section 3 of the Lease.

Section 2. Grant of Security Interest.

2.1 As collateral security for the prompt and complete payment and performance when due of all the Obligations and in order to induce the Lender to make the Loan to the Lessor, the Lessor hereby assigns, conveys, mortgages, pledges, hypothecates and transfers to the Lender, and hereby grants to the Lender, a first priority security interest in all of the Lessor's rights, title and interests in, to and under the following (all of the following being herein collectively called the "Collateral"):

(a) the Lease, the EPA and the Purchase Agreement, and all Rents and other sums due and to become due thereunder, including, without limitation, all rights and claims of the Lessor, now or hereafter existing, (i) under any insurance, indemnities (other than any indemnity or other payment payable to the Lessor pursuant to Section 6 or Section 9 of the Lease), warranties and guarantees provided for or arising out of or in connection with the Lease, the EPA and the Purchase Agreement, (ii) for any damages arising out of or for breach or default under or in connection with the Lease, the EPA and the Purchase Agreement, (iii) to all other amounts from time to time paid or payable under or in connection with the Lease, the EPA and the Purchase Agreement, and (iv) to terminate the Lease, the EPA and the Purchase Agreement, and to exercise or enforce any and all covenants, remedies, powers and privileges thereunder, and to grant any and all consents, approvals and waivers thereunder; and

(b) all 37 of the 2,000 horsepower model GP-38-2 locomotives with Lessee's Unit numbers MP2074-MP2110 inclusive manufactured by General Motors, Electromotive Division, together with all replacements, substitutions, attachments, modifications, additions, improvements, upgrades and accessions of, to or upon such locomotives, now owned or at any time hereafter acquired by the Lessor (collectively, the "Equipment") and all proceeds thereof;



subject, however, to all of the Lessee's rights under the Lease, including, without limitation, so long as no Event of Default (as defined in Section 10 of the Lease) shall have occurred and be continuing under the Lease, the right to the quiet enjoyment, possession and use of the Equipment in accordance with the terms of the Lease and the right to purchase the Equipment granted therein. Except with respect to the Purchase Agreement, the grant of security interests in this Section 2 continues and restates the grant of security interests to Meritor in the Original Security Agreement.

2.2 It is expressly agreed that, anything contained herein to the contrary notwithstanding, (a) the Lessor shall at all times remain liable to observe and perform all of its duties and obligations under the Lease, the EPA and the Purchase Agreement, to the same extent as if this Agreement had not been made, (b) the exercise by the Lender of any of the rights assigned hereunder shall not release the Lessor from any of its duties or obligations under the Lease, the EPA or the Purchase Agreement, and (c) the Lender shall not have any obligation or liability under the Lease, the EPA or the Purchase Agreement, by reason of this Agreement or the receipt by the Lender of any payment or property under the Lease, the EPA or the Purchase Agreement, or pursuant hereto; nor shall the Lender be obligated to perform or fulfill any of the duties or obligations of the Lessor under the Lease, the EPA or the Purchase Agreement, or to make any payment thereunder, or to make any inquiry as to the nature or sufficiency of any payment or property received by it thereunder, or as to the sufficiency of performance by any party thereunder, or to present or file any claim, or to take any action to collect or enforce any performance or the payment of any amounts or the delivery of any property which may have been assigned to it or to which it may be entitled at any time or times.

2.3 (a) As more fully set forth in Section 2.1 hereof, the Lessor has assigned to the Lender, as collateral security for the Obligations, the Lease, the EPA and the Purchase Agreement and all Rent and certain other amounts from time to time payable thereunder. All such assigned moneys under the Lease shall be paid directly to the Lender by the Lessee, and the Lender acknowledges that the Lessor has so notified the Lessee. If the Lessor shall at any time receive any such moneys under the Lease, the EPA or the Purchase Agreement, it shall hold such moneys in trust for the benefit of the Lender and shall promptly deliver such moneys to the Lender.

(b) The Lender shall hold all moneys received by it as part of the Collateral and shall apply such moneys as provided in this Agreement. If any default occurs in the making of any payment or performance hereunder or under the Lease, the EPA or the Purchase Agreement, the Lender may take such action as it may deem appropriate to enforce such payment or performance, including the institution and prosecution of appropriate proceedings. Any such action shall be without prejudice to any right to claim an Event of Default hereunder and to proceed thereafter as provided in Section 7 hereof.

2.4 In any suit, proceeding or action brought by the Lender under the Lease, the EPA or the Purchase Agreement, for any sum owing thereunder, or to enforce any provision of the Lease, the EPA or the Purchase Agreement, the Lessor will save, indemnify and keep the Lender harmless from and against all expense, loss or damage suffered by reason of any defense, setoff, counterclaim, recoupment or reduction of liability whatsoever of the Lessee or other party to the Lease, the EPA or the Purchase Agreement, arising out of a breach by the Lessor of any obligation thereunder or arising out of any other agreement, indebtedness or liability at any time owing to or in favor of the Lessee or its successors from the Lessor. All such obligations of the Lessor shall be and remain enforceable against and only against the Lessor, and shall not be enforceable against the Lender.

2.5 (a) The Lessor hereby irrevocably constitutes and appoints the Lender, and any officer or agent thereof, with full power of substitution, as its true and lawful attorney-in-fact, with full irrevocable power and authority in the place and stead of the Lessor and in the name of the Lessor in its own name, from time to time in the Lender's discretion, for the purpose of carrying out the terms of this Agreement, the Lease, the EPA or the Purchase Agreement, to take any and all appropriate action and to execute any and all documents and instruments which may be necessary or desirable to accomplish the purposes of this Agreement, the Lease, the EPA or the Purchase Agreement, without assent by the Lessor; provided, however, that, so long as there is no Event of Default hereunder, the Lender shall give the Lessor notice of any such action or execution. The Lessor hereby ratifies all that said attorney shall lawfully do or cause to be done by virtue hereof. This power of attorney is a power coupled with an interest and shall be irrevocable.

(b) The powers conferred on the Lender hereunder are solely to protect its interest in the Collateral and shall not impose any duty upon it to exercise any such powers. The Lender shall be accountable only for amounts that it actually receives as a result of the exercise of such powers, and neither it nor any of its officers, directors, employees or agents shall be responsible to the Lessor for any act or failure to act. Beyond the safe custody thereof, the Lender shall not have any duty as to any of the Collateral in its possession or control or in the possession or control of its agents or nominees, or any income thereon, or as to the preservation of rights against prior parties or any other rights pertaining thereto.

(c) The Lessor authorizes the Lender, at any time and from time to time, to execute, in connection with the sale provided for in Section 7.1 hereof, any endorsements, assignments, bills of sale or other instruments of conveyance or transfer with respect to the Collateral.

2.6 Except as expressly provided in Section 8.3 hereof, the security interest created hereunder shall terminate when the Obligations shall have been paid and performed in full. The Lender, at the request of the Lessor, will at such time execute such documents for recordation with the Interstate Commerce Commission and such termination statements and other documents (without recourse to, or representation or warranty by, the Lender) as may be necessary to evidence the termination of such security interest.

Section 3. Distribution of Moneys. All amounts received by the Lender with respect to the Collateral shall be applied as follows:

3.1 The Lender shall hold all Rent paid pursuant to the first paragraph of Section 3 of the Lease (including all interest paid on overdue installments of Rent) and shall apply such moneys, except as otherwise provided in this Section 3, first, to the payment of the installments of principal and interest (including any overdue penalty interest) under the Note which shall have become due or which shall become due on or before the day on which such installment of Rent is due from the Lessee, second, on the payment of any other Obligations which are then due and payable, and third, the balance, if any, of such moneys at the Lender's option, may be held by the Lender as part of the Collateral.

3.2 Except as otherwise provided in Section 3.3 hereof, all other moneys from time to time received by the Lender as part of the Collateral (other than amounts specified in Section 3.1 hereof) shall, (a) if due to the Lender pursuant to the terms of this Agreement, the Lease, the EPA or the Purchase Agreement, be applied by the Lender for the purpose for which such payment was made, (b) if specific provision as to the application thereof is made herein or in the Lease, the EPA or the Purchase Agreement, be applied by the Lender for the purpose for which it was made, and (c) if no provision as to its application is made herein or in the Lease, the EPA or the Purchase Agreement, or if due to the Lessor, the Lessee or other party under the Lease, the EPA or the Purchase Agreement, be distributed in accordance with the terms of the Lease, the EPA or the Purchase Agreement.

3.3 Notwithstanding anything to the contrary contained in this Agreement, all amounts received by the Lender after a Default shall have occurred and be continuing hereunder shall, at the sole option of the Lender, (a) be applied pursuant to Section 3.1 or 3.2 hereof, as the case may be, or (b) be held by the Lender as part of the Collateral or (c) after the occurrence of an Event of Default, be applied to the payment of the Obligations as provided in Section 7 hereof.

#### Section 4. Prepayment of Note.

4.1 Except as set forth in this Section 4, the Note may not be prepaid in whole or in part without the written consent of the Lender.

4.2 The Lessor may prepay the Note in whole (but not in part) by complying with the following provisions of this Section 4.2. The Lessor shall notify the Lender of the prepayment date not less than thirty (30) days before such date. Notice of prepayment having been so given, the aggregate principal amount of the Note then outstanding and the accrued interest on such principal amount, together with the Prepayment Premium (as defined in Section 4.4), shall become due and payable on the specified prepayment date. The Lessor acknowledges that the Lender's right to maintain a rate of return based on the full term of the Note is a valuable right, and the requirement that the Lessor pay the Prepayment Premium in the event of a prepayment is intended

to provide reasonable compensation for the deprivation of such right under such circumstances.

4.3 Any acceleration following an Event of Default (other than if solely due to a Casualty Occurrence) shall be deemed to be an evasion of the restrictions on prepayment set forth in this Agreement and the Note, and the Lessor shall pay to the Lender the Prepayment Premium, in addition to all other amounts due, as liquidated damages reasonably calculated to compensate the Lender for loss of its bargain and not as a penalty.

4.4 As used in this Agreement, the "Prepayment Premium" shall be determined as follows: (i) if the prepayment or acceleration occurs before May 1, 1990, the Prepayment Premium shall be an amount equal to 3% of the outstanding balance due on the Note, (ii) if the prepayment or acceleration occurs on or after May 1, 1990, but before September 1, 1991, the Prepayment Premium shall be an amount equal to 2% of the outstanding balance due on the Note, (iii) if the prepayment or acceleration occurs on or after September 1, 1991, but before October 1, 1993, the Prepayment Premium shall be an amount equal to 1% of the outstanding balance due on the Note, and (iv) if the prepayment or acceleration occurs on or after October 1, 1993, there shall be no Prepayment Premium.

Section 5. Covenants and Agreements of the Lessor. The Lessor hereby covenants and agrees that:

5.1 The Lessor will (a) duly observe and conform to all valid requirements of any governmental authorities which are required with respect to the performance of its obligations under the Basic Documents, (b) obtain and keep in full force and effect all franchises that are required with respect to the performance of its obligations under the Basic Documents and (c) obtain, or cause to be obtained, as promptly as possible any governmental, administrative or agency approval and make any filing or registration therewith which at the time shall be required with respect to the performance of its obligations under the Basic Documents.

5.2 The Lessor will (a) duly observe and perform all covenants and obligations to be performed by it under the Basic Documents and (b) upon the request of the Lender, promptly take any and all action as may be necessary to enforce its rights under the Basic Documents or to secure the

performance by the other parties thereto of their respective obligations thereunder.

5.3 The Lessor shall furnish to the Lender:

(a) within 90 days after the close of each fiscal year of the Lessor occurring after the date hereof, an unaudited balance sheet and statement of income of the Lessor at and as of the end of such fiscal year, certified by a partner of the Lessor;

(b) upon advance request by the Lender, within 45 days after the close of each of the first three quarters of each fiscal year of the Lessor, an unaudited balance sheet and statement of income of the Lessor for such quarter, certified by a partner of the Lessor;

(c) from time to time, such other information with respect to the Lessor as the Lender may reasonably request.

5.4 Upon execution and delivery by the Seller of the Bill of Sale, the Lessor shall acquire good and marketable title to the Equipment, free and clear of all Liens except as may have arisen by, through or under (a) the Lessee in violation of the terms of the Lease, or (b) the Original Security Agreement, and the Lessor will retain such title throughout the remaining term of the Lease and thereafter until payment of all Obligations. The Lessor will not create, assume or suffer to exist any Lessor's Lien on the Equipment or any of the other Collateral. The Lessor will not assign, sell, convey, transfer or otherwise dispose of any of the Collateral, or any interest therein, other than pursuant to the Lease or this Agreement.

5.5 The Lessor (a) has not undertaken, and will not undertake, any obligation or liability other than pursuant to the Lease, this Agreement and the documents and agreements contemplated thereby or hereby, (b) has not engaged in, and will not engage in, any business other than the ownership and leasing of the Equipment pursuant to the Lease and (c) shall maintain its existence and not enter into any transaction of merger or consolidation, or liquidate, dissolve or terminate itself or suffer any liquidation, dissolution or termination) during the term of the Lease.

5.6 The Lessor will promptly, at any time and from time to time, at no expense to the Lender, execute and deliver to

the Lender such further instruments and documents, and take such further action, as the Lender may from time to time reasonably request in order to further carry out the intent and purpose of this Agreement and the other Basic Documents to which it is a party and to establish and protect the rights, interest and remedies created, or intended to be created, in favor of the Lender hereby and thereby, including, without limitation, instruments, documents and filings relating to the Lender's security interest granted herein in the Collateral.

5.7 The Lessor will pay (but only out of the Collateral), or reimburse the Lender for (but only out of the Collateral), any and all fees, costs and expenses of whatsoever kind or nature incurred in connection with the creation, preservation and protection of the Lender's security interest in the Collateral, including, without limitation, all fees and taxes in connection with the recording or filing of instruments and documents in public offices, payment or discharge of any taxes or Liens (other than Lessor's Liens) upon or in respect of the Collateral, premiums for insurance with respect to the Collateral and all other fees, costs and expenses in connection with protecting, maintaining or preserving the Collateral and the Lender's interest therein, whether through judicial proceedings or otherwise, or in defending or prosecuting any actions, suits or proceedings arising out of or related to the Collateral; and all such amounts that are paid by the Lender shall, until reimbursed by the Lessor, constitute obligations of the Lessor secured by the Collateral.

5.8 Without the prior written consent of the Lender, the Lessor will not declare a default under, or exercise any remedies under, the Lease, the EPA or the Purchase Agreement, or enter into or permit any cancellation, termination, amendment, supplement or modification of, or arising out of the Lease, the EPA or the Purchase Agreement, and any such attempted declaration, exercise, cancellation, termination, amendment, supplement, modification, waiver, consent or approval shall be void and of no effect unless the Lessor shall have received the prior written consent thereto from the Lender.

5.9 The Lessor shall not change the location of its principal place of business and its chief executive office and the office where the records relating to the Collateral are kept, as set forth in paragraph (f) of Section 4.1 of the

Participation Agreement, or change its name, unless it has given the Lender at least 30 days prior written notice thereof.

5.10 Upon obtaining knowledge thereof, the Lessor will promptly give written notice to the Lender of (i) the occurrence of any Default or Event of Default under this Agreement and any default or Event of Default (as defined in Section 10 of the Lease) under the Lease, the EPA or the Purchase Agreement, and (ii) the commencement or threat of any litigation or proceedings against or affecting the Lessor or any part of the Collateral. The Lessor will promptly deliver to the Lender a copy of each communication received from the Lessee pursuant to the Lease, the EPA or the Purchase Agreement, or with respect to the transactions contemplated hereby, unless such communication states that it has also been delivered to the Lender.

Section 6. Default. The occurrence of any of the following events shall constitute an Event of Default hereunder:

6.1 (a) payment of any part of the principal of, or interest on, the Note shall not be made when due (whether at the stated maturity, by acceleration or otherwise), and such default shall continue unremedied for a period of 10 days; or

(b) the Lessor shall default in the observance or performance of any agreement contained in Section 5.4, 5.5 or 5.8 hereof; or

(c) the Lessor shall default in the due observance or performance of any other covenant or provision contained herein or in the Participation Agreement, and such default by the Lessor shall continue unremedied for more than 30 days after notice thereof from the Lender; or

(d) any representation or warranty made by the Lessor in this Agreement or in the Participation Agreement, or in any document, certificate or financial or other statement furnished by the Lessor pursuant to this Agreement or the Participation Agreement, shall at any time prove to be untrue in any material respect as of the time when made, and the effect thereof shall be materially adverse to the Lender; or



(e) at any time the Lender shall not have a legal and valid first perfected lien on, and security interest in, the Collateral, prior and superior to all Liens, or if at any time prior to the Maturity Date, the EPA shall cease to be in full force and effect; or

(f) (i) the Lessor shall commence any case, proceeding or other action (A) under any existing or future law of any jurisdiction, domestic or foreign, relating to bankruptcy, insolvency, reorganization or relief of debtors, seeking to have an order for relief entered with respect to it, or seeking to adjudicate it a bankrupt or insolvent, or seeking reorganization, arrangement, adjustment, winding-up, liquidation, dissolution, termination, or other relief with respect to it or its debts, or (B) seeking appointment of a receiver, trustee, custodian or other similar official for it or for all or any substantial part of its assets, or the Lessor shall make a general assignment for the benefit of its creditors; or (ii) there shall be commenced against the Lessor any case, proceeding or other action of a nature referred to in clause (i) of this paragraph (f) which (A) results in the entry of an order for relief of any such adjudication or appointment or (B) remains undismissed, undischarged or unbonded for a period of 60 days; or (iii) there shall be commenced against the Lessor any case, proceeding or other action seeking issuance of a warrant of attachment, execution, distraint or similar process against all or any substantial part of its assets, which results in the entry of an order for any such relief which shall not have been vacated, discharged, or stayed or bonded pending appeal within 60 days from the entry thereof; or (iv) the Lessor shall take any action in furtherance of, or indicating its consent to, approval of, or acquiescence in, any of the acts set forth in clause (i), (ii), or (iii) of this paragraph (f); or (v) the Lessor shall generally not, or shall be unable to, or shall admit in writing its inability to, pay its debts as they become due; or

(g) an "Event of Default" (as defined in Section 10 of the Lease) shall occur under the Lease.

6.2 Upon (a) the occurrence of any Event of Default specified in paragraph (f) of Section 6.1 hereof, the principal amount of the Note, together all accrued interest thereon and all other amounts owing to the Lender, shall become immediately due and payable without any action by the Lender and (b) the occurrence and continuance of any other

Event of Default, the Lender may declare the Note to be forthwith due and payable, whereupon the principal amount of the Note, together with all accrued interest thereon, shall become immediately due and payable without presentment, demand, protest or other notice of any kind, all of which are hereby expressly waived, anything contained herein or in the Note to the contrary notwithstanding. During the continuance of any Event of Default hereunder, the Lender shall have the right to pursue and enforce any of its rights and remedies under Section 7 hereof; subject, to the rights of the Lessee under the Lease, including without limitation, so long as no Event of Default (as defined in Section 10 of the Lease) shall have occurred and be continuing under the Lease, the right to the quiet enjoyment, possession and use of the Equipment in accordance with the terms of the Lease and the right to purchase the Equipment granted therein.

#### Section 7. Remedies.

7.1 If an Event of Default shall occur and be continuing, the Lender may exercise, as the Lender shall deem best, in addition to all other rights and remedies granted to it in this Agreement and in any other instrument or agreement securing, evidencing or relating to the Obligations, all rights and remedies of secured parties under the Interstate Commerce Act or the Uniform Commercial Code in any state having jurisdiction or under any other applicable law and all rights and powers of the Lessor relating to the Collateral, including the remedies available to the Lessor as Lessor under the Lease, as Seller under the EPA and as Purchaser under the Purchase Agreement. Without limiting the generality of the foregoing, the Lessor agrees that in any such event, the Lender, without demand of performance or other demand, advertisement or notice of any kind (except the notice specified below of time and place of public or private sale) to or upon the Lessor or any other person (all and each of which demands, advertisements and notices are hereby expressly waived), may forthwith take possession of and collect, receive, appropriate and realize upon the Collateral, or any part thereof, and may forthwith exclude the Lessor, and all persons claiming under it and may forthwith use, operate, store, control, manage and sell, lease, assign, give option or options to purchase or otherwise dispose of and deliver the Collateral (or contract to do so), or any part thereof, in one or more parcels at public or private sale or sales, at any exchange or broker's board or at any of the Lender's offices or elsewhere at such prices as it may

deem best, for cash or on credit or for future delivery without assumption of any credit risk. The Lender shall have the right upon any such public sale or sales, and, to the extent permitted by law, upon any such private sale or sales, to purchase all or any of the Collateral so sold, free of any right or equity of redemption of the Lessor, which right or equity is hereby expressly released. The Lender shall apply the net proceeds of any such collection, recovery, receipt, appropriation, realization or sale (after deducting all reasonable costs and expenses of every kind incurred therein or incidental to the care, safekeeping or otherwise of any or all of the Collateral, or in any way relating to the rights of the Lender hereunder, including maintenance, repairs, replacements, alterations, additions and improvements as the Lender may deem proper, and any and all payments which the Lender may be required or may elect to make, if any, for taxes, assessments, insurance, or other proper charges upon the Collateral or any part thereof, including attorneys' fees and legal expenses) to the payment in whole or in part of the Obligations in such order as the Lender may elect, and only after so applying such net proceeds and after the payment by the Lender of any other amount required by any provisions of law, need the Lender account for surplus, if any, to the Lessor. To the extent permitted by applicable law, the Lessor waives all claims, damages, and demands against the Lender arising out of the repossession, retention or sale of the Collateral. The Lessor agrees that the Lender need not give more than 10 days' notice (which notification shall be deemed given when mailed, first class postage prepaid, addressed to the Lessor at its address set forth in Section 9.2 hereof) of the time and place of any public sale or of the time after which a private sale may take place and that such notice is reasonable notification of such matters.

7.2 The Lessor also agrees to pay (but only out of the Collateral) all costs of the Lender, including reasonable attorneys' fees, incurred with respect to the collection of any of the Obligations and the enforcement of any of its respective rights hereunder.

7.3 The Lessor hereby waives presentment, demand, protest and, except as provided in Section 7.1 hereof, any notice of any kind in connection with this Agreement or any of the Collateral.

7.4 In case the Lender shall have instituted any proceeding to enforce any right, power or remedy under this

Agreement by foreclosure, reentry or otherwise, and such proceeding shall have been discontinued or abandoned for any reason or shall have been determined adversely to the Lender, then and in every such case the Lender shall, subject to any determination in such proceeding, be restored to its former position and rights hereunder with respect to the Collateral, and all rights, powers and remedies of the Lender shall continue as if no such proceeding had been instituted. The Lender may, at its election, waive any Event of Default and its consequences and rescind and annul any notice relating thereto by notice to the Lessor to that effect, and thereupon the respective rights of the parties shall be as they would have been if no such Event of Default had occurred and no such notice relating thereto had been made or given.

7.5 Notwithstanding anything to the contrary contained herein, the exercise of all rights and remedies of the Lender under this Section 7 shall at all times be subject to the rights of the Lessee under the Lease, including, without limitation, so long as no Event of Default (as defined in Section 10 of the Lease) shall have occurred and be continuing under the Lease, the right to the quiet enjoyment, possession and use of the Equipment in accordance with the terms of the Lease and the right to purchase the Equipment granted therein.

#### Section 8. Non-Recourse Nature of Obligations.

8.1 Non-Recourse. No recourse shall be had against the Lessor personally or against any partner of the Lessor with respect to this Agreement or the Note, it being understood that the Lessor's obligations under the Note and hereunder are enforceable only against the Collateral and the Lessor's interest therein; provided, however, that the Lessor shall be personally liable for any and all damages to the Lender caused by any breach of any covenant or agreement of the Lessor contained herein (except any covenant or agreement contained in Sections 5.7, 7.2 or 9.4 hereof, in clause (a) of Section 5.2 hereof to the extent that the Lessor is obligated thereby to make a cash payment, or in Section 2.4 hereof to the extent that the underlying obligation of the Lessor giving rise to the Lessor's liability under each Section is non-recourse to the Lessor), or caused by willful misconduct on the part of the Lessor.

8.2 Equitable Relief. Nothing contained in Section 8.1 hereof shall limit the right of the Lender to seek injunctive

or other equitable relief with respect to any of the Lessor's obligations, covenants, representations or warranties, provided, however, that obligations to make cash payments are not specifically enforceable against the Lessor except as may be specifically provided in Section 8.1 hereof.

Section 9. Miscellaneous.

9.1 No Waiver; Cumulative Remedies. No failure or delay on the part of the Lender in exercising any right, power or privilege hereunder or under the Note shall operate as a waiver thereof, nor shall any single or partial exercise of any right, power or privilege hereunder or thereunder preclude any other or further exercise thereof or the exercise of any other right, power or privilege. The rights and remedies herein and therein provided are cumulative and not exclusive of any rights or remedies provided by law.

9.2 Notices. All notices, requests and demand to or upon any party hereto shall be deemed to have been duly given or made when personally delivered or three days after being deposited in the mail, first class postage prepaid, addressed to each party as follows, or to such other address as may be hereafter designated in writing by such party to the other party hereto:

Lessor:                   Platte River Associates  
Suite 700, 1200 Market Building  
P.O. Box 198  
Wilmington, Delaware 19899  
Attention: John M. Ruse  
Gerard Tanner

Lender:                   First City Leasing Corporation  
1001 Main, Suite 1550  
Houston, Texas 77002  
Attention: President

9.3 Performance by Lender of Lessor's Obligations. If the Lessor fails to perform or comply with any of its agreements contained herein or in the Lease, the EPA or the Purchase Agreement, and the Lender shall itself perform or comply, or otherwise cause performance or compliance, with such agreement, the expenses of the Lender incurred in connection with such performance or compliance, together with interest thereon at the rate provided for in respect of the Note, shall be payable by the Lessor to the Lender on demand,

and, until such payment, such expenses shall constitute Obligations secured hereby.

9.4 Payment of Expenses. To the extent not paid by the Lessee, the Lessor agrees to pay (but only out of the Collateral) all costs and expenses of the Lender in connection with the enforcement of this Agreement, including all legal fees and disbursements arising in connection therewith.

9.5 Survival of Certain Agreements. The agreements contained in Sections 9.3 and 9.4 hereof shall survive payment of the Note and any other Obligations.

9.6 Amendments. Neither this Agreement, nor any terms hereof, may be changed, waived, discharged or terminated orally, but only by an instrument in writing signed by the party against which enforcement of a change, waiver, discharge or termination is sought.

9.7 Counterparts. This Agreement may be executed by the parties hereto in any number of separate counterparts, each of which when so executed and delivered shall be an original, but all such counterparts shall together constitute but one and the same instrument.

9.8 Headings. The headings of the sections and paragraphs are for convenience only, are not part of this Agreement and shall not be deemed to affect the meaning or construction of any of the provisions hereof.

9.9 Successors or Assigns. This Agreement shall be binding upon and inure to the benefit of the Lessor and the Lender and their respective successors and assigns, except that the Lessor may not assign or transfer its rights hereunder or any interest herein without the prior written consent of the Lender.

9.10 Construction. This Agreement and the Note shall be governed by, and construed and interpreted in accordance with, the laws of the State of Texas.

PLATTE RIVER ASSOCIATES

By: *Gerard Tanner*  
Name: Gerard Tanner  
Title: Partner

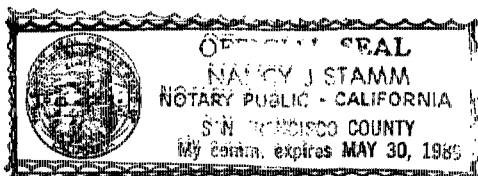
FIRST CITY LEASING CORPORATION

By: *J. L. Williams*  
Name: J. L. Williams  
Title: Chairman of the Board/  
Chief Executive Officer

State of California §  
County of San Francisco §

On December 20, 1988, before me the undersigned, a Notary Public for the State of California, personally appeared Gerard Tanner, proved to me on the basis of satisfactory evidence to be the person whose name is subscribed to the within instrument, and acknowledged that he executed it.

Witness my hand and  
official seal.



Signature: *Nancy J. Stamm*

Printed Name: Nancy J. Stamm

My Commission Expires: May 30 1989

State of Texas                   §  
   §  
County of Harris               §

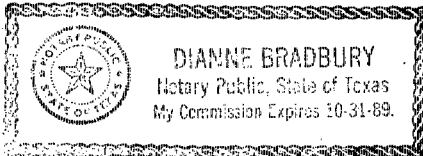
On December 28, 1988, before me the undersigned, a Notary Public for the State of Texas, personally appeared J.L. Williams, proved to me on the basis of satisfactory evidence to be the person whose name is subscribed to the within instrument, and acknowledged that he executed it.

Witness my hand and  
official seal.

\_\_\_\_\_  
Signature: *[Handwritten Signature]*

Printed Name: \_\_\_\_\_

My Commission Expires: \_\_\_\_\_



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